IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Reissue Application of:

BILL L. DAVIS and JESSE S. WILLIAMSON

Application No.: 09/315,796 (Reissue application of Pat. 5,630,363, issued May 20,1997)

Filed: May 20, 1999 Examiner: Joshua D. Zimmerman

For: **Combined Lithographic/Flexographic Printing Apparatus and Process**

SUPPLEMENTAL REISSUE DECLARATION

Applicants, Bill L. Davis, a United States citizen, residing at, and have a mailing address of, 1126 Tipton Road, Irving, Texas 75067; and Jesse S. Williamson, a United States citizen, residing at, and having a mailing address of, 5738 Caruth, Dallas, Texas 75209, jointly declare and state that:

1. We are competent to understand and sign this declaration and fully understand the statements we are making herein.

2. We have reviewed and understand the contents of the above identified application, specifically including the claims as presented in the accompanying Response, and verily believe ourselves to be the original, sole and joint inventors of the subject matter respectively claimed, and for which a reissue of U.S. Patent 5,630, 363 is sought.

3. We acknowledge, and understand that, we each have a duty of candor and good faith in dealing with the Patent Office, which includes the duty to disclose to the Patent Office all information known by either of us which is material to the patentability of the claimed inventions, as defined in 37 C F R 1.56. In that regard, our duty includes, *inter alia,* to disclose information that (1) establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of any claim, or (2) refutes, or is inconsistent with, a position that either of us, or our representative, takes in (i) opposing an argument of unpatentability relied upon by the Patent Office, or (ii) asserting an argument of patentability.

4. We believe the original patent, namely Patent 5,630,363 ("the '363 patent"), to be wholly or partially inoperative by reason of the fact, *inter alia*, that the original claims of the '363 patent claim less than we had the right to claim. Specifically, the broad concept of our apparatus invention is print apparatus that combines a plurality of successive printing stations in a continuous in-line arrangement, in which a flexographic printing station is effective to print a first "image" (*e.g.*, coating, slurry, pattern, etc.) on a substrate using the flexographic process, and at least one of the successive printing stations comprises a lithographic printing station effective to print an image over the first image using an in-line lithographic process. Thus, our invention is irrespective of the content or type of either image. For example, in addition to printing color images, the flexographic process of the '363 patent can apply colorless or opaque coatings (*see, e.g., col. 4, lines 25–27*), and the lithographic process also can apply colorless images such as opaque coatings (*see ,e.g., col. 7, lines 37,38*). Moreover, the lithographic image of our invention can be either an image that is different than the first image (*see, e.g., col. 8, lines 25–27*), or the same as the first image (*see, e.g., col. 7, lines 46–48*). In addition, the lithographic image may be of conventional lithographic ink or of waterless ink (*see, e.g. ,col. 7, lines 57–60*). Likewise, the image formed by the flexographic process (*i.e.*, the "first" image) can be of various types including, for example, a liquid vehicle slurry containing an encapsulated essence, a water-based liquid vehicle containing suspended particles of uniform size, a water–based liquid vehicle containing suspended particles of nonuniform size, which suspended particles may (or may not) be metallic particles of substantial size. (*see, e.g., col. 8, lines 1-8).* However, these are all just examples of the types of images that can be formed–the basic concept of the apparatus of our invention is combined in-line flexographic and lithographic stations providing for the continuous in-line printing of a lithographic image over a flexographic image. Moreover, it makes no difference what type of lithographic equipment that is used, as the apparatus of our invention does not require lithographic equipment of the offset type.

5. Notwithstanding this basic concept of our invention, all of the original apparatus claims of the '363 patent have limitations that unduly limit the scope of our apparatus invention to less than its intended scope. To begin with, all of the apparatus claims recite that the images that are printed are "color images". However, as we pointed out above, our invention is also

applicable to the application of colorless coatings, both by the flexographic station and the lithographic station. Next, independent apparatus claims 6, 10, 12, 15 and 17 (and therefore dependent claims 7-9, 11, 13, 14, 16 and 18–28) limit the lithographic printing station to one in which an offset type of lithographic process is used for the lithographic printing. However, our invention is not so limited, as any type of lithographic equipment can be used, not just offset lithographic equipment. These are both errors.

6. Moreover, independent claim 1 (and therefore dependent claims 2-5) requires that the image applied by the flexographic process be limited to a "liquid vehicle image" with a "slurry containing an encapsulated essence," while independent claim 6 (and therefore dependent claims 7-9) requires that this image be limited to an aqueous-based vehicle image with a metallic suspension. Also problematic is that independent claim 10 (and therefore dependent claim 11) refers to the image printed at the flexographic printing station as the "first" image while referring to the image printed by the lithographic process as a "second" image . Thus, as alluded to above, an infringer which prints an identical lithographic image over the flexographic image would argue that the reference in claim 10 to a "second" image requires this second image to be one that is different from, and not the same as, the first image, thus excluding the infringer's copy. Finally, independent claims 12, 15 and 17 (and therefore dependent claims 13,14,16, and 18–28) are unnecessarily limited to the various recited structural limitations of the flexographic print station. Thus, none of the original apparatus claims 1-28 of the '363 patent clearly and unequivocally cover the essence of our apparatus invention.

7. The aforementioned errors arose without any deceptive intention and we seek to correct these errors by this reissue application. Specifically, newly added claim 167 is an example of a claim that omits all of the needless limitations referred to above and broadly and unequivocally claims the essence of our apparatus invention, as we intended.

8. We further declare that we do not know and do not believe that the inventions as presently defined by the respective claims in this reissue application, and in the accompanying Response, were ever known or ever used in the United States of America before our invention thereof, or patented or described in any printed publication in any country before our invention thereof, or patented or described in any printed publication, or in public use or on sale in the

United States of America, more than one year prior to the filing date of the application for the '363 patent; further, that said inventions have not been patented nor made the subject of any inventor's certificate issued before the filing date of the first application leading to the '363 patent in any country foreign to the United States of America on any application filed by us or our legal representative or assigns more than twelve (12) months prior to the filing date of said first patent application in the United States of America, and has not been abandoned.

9. We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or of any reissue patent issuing thereon.

Date: 4-17-09

Bill L. Davis

Date: 4-17-09

Jesse S. Williamson